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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,706	08/24/2001	John F. Broker	BRO005-009	9662

7590 10/23/2003

DIEDERIKS & WHITELOW, PLC  
12471 Dillingham Square, #301  
Woodbridge,, VA 22192

EXAMINER
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STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

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DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/935,706

Applicant(s)

BROKER, JOHN F.

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The indicated allowability of claims 5 and 11 is withdrawn in view of the newly discovered reference(s) to Castwell et al. Rejections based on the newly cited reference(s) follow.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castwall et al. in view of either Japan 4-325193 (Japan'193), Meredith et al. or Geib et al.

Re claims 1 and 9, Castwell is cited disclosing a washing machine for laundering articles of clothing comprising a cabinet shell (not shown), an outer tub (14), an inner tub (10) and a noise reduction system that differs from the claims only in the recitation of the noise reduction system including a microphone. Japan'193, Meredith and Geib are each cited disclosing a noise reduction system where there is included a microphone (see 10 in Japan'193, see col.6, line 70-71 in Meredith and see 10 and col.3, line 36 in Geib). It therefore would have been obvious to one having ordinary skill in the art to modify the noise reduction system of Castwall, to include a microphone as taught by either Japan'193, Meredith or Geib, since Castwall discloses that "The magnitude of the imbalance is determined by a vibration sensor which can be designed in various ways" at col. 2, lines 64-65 and "In addition the vibration sensor 24 can be replaced by an imbalance sensor of any other kind" at col. 4, lines 22-24. Re claim 2,

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Castwall as proposedly modified, discloses the microphone on the outer tub as claimed.

Re claim 3, Castwall discloses the horizontal orientation. Re claim 4, Castwall discloses the controller (26). Re claim 10, Castwall disclose the out of balance condition.

4. <sup>2, 3</sup> Claims 8 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 6 and 7 are allowed.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In Japan'189, Japan'9193 and Japan'091, note the sensor means/control means.

7. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (703) 308-0661. The examiner can normally be reached during the first week of the pay-period M-F from 5:30 a.m. to 3:00 p.m. and during the second week of the pay-period from Tu-Th second from 5:30 a.m. to 3:00 p.m. and on Fri. from 5:30 a.m. to 2:00 p.m. Alternating Mondays off.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact Office Manager Ms. Sandra Sewell (703) 308-0661.

fls



FRANKIE L. STINSON  
Primary Examiner  
Art Unit 1746